

Minutes
State Board of Education
January 30, 2013

The State Board of Education met at 10:08 a.m. on Wednesday, January 30, 2013, in the State Board of Education Room, #1-104, of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. All members of the board were present, as follows:

Presiding: Barbara Cargill, Chair; Lawrence A. Allen, Jr.; Donna Bahorich; David Bradley; Ruben Cortez, Jr.; Martha M. Dominguez; Pat Hardy; Mavis B. Knight; Tom Maynard; Sue Melton; Ken Mercer; Geraldine “Tincy” Miller; Marisa B. Perez; Thomas Ratliff; Marty Rowley

1. Swearing-in Ceremony for Members of the State Board of Education
(No Agenda Exhibit)

The Honorable Dan Patrick, Texas State Senator, administered the Oath of Office to the following newly elected members of the State Board of Education: Martha M. Dominguez, District 01; Ruben Cortez, Jr., District 02; Marisa B. Perez, District 03; Donna Bahorich, District 06; Tom Maynard, District 10; Geraldine “Tincy” Miller, District 12; Sue Melton, District 14; Marty Rowley, District 15; and the following re-elected members: Lawrence A. Allen, Jr., District 04; Ken Mercer, District 05; David Bradley, District 07; Barbara Cargill, District 08; Thomas Ratliff, District 09; Pat Hardy, District 11; and Mavis B. Knight, District 13.

The following dignitaries also were in attendance: Lieutenant Governor Bill Ratliff; Texas State Representative Bennett Ratliff; and former SBOE members Texas State Representative Alma A. Allen and Texas State Representative Marsha Farney.

Michael L. Williams, Commissioner of Education, congratulated all board members, and expressed his willingness to work with them.

The student performance was provided by Edcouch-Elsa High School Mariachi Juvenil Azteca, Edcouch-Elsa Independent School District.

The State Board of Education recessed its meeting at 10:50 a.m. so that the members could attend a reception in Room 1-103 for invited family and friends. The State Board of Education reconvened at 11:15 a.m.

2. Drawing for Terms of Office
(Board agenda page SBOE-1)

After redistricting of board districts occurs, the State Board of Education members are required by statute to draw lots to determine who serves for terms of two or four years. The results were as follows:

<u>District</u>	<u>Member</u>	<u>Term</u>	<u>Expiration</u>
1	Dr. Dominguez	4 years	January 1, 2017
2	Mr. Cortez	2 years	January 1, 2015
3	Ms. Perez	2 years	January 1, 2015
4	Mr. Allen	2 years	January 1, 2015
5	Mr. Mercer	4 years	January 1, 2017
6	Mrs. Bahorich	4 years	January 1, 2017
7	Mr. Bradley	2 years	January 1, 2015
8	Mrs. Cargill	4 years	January 1, 2017
9	Mr. Ratliff	4 years	January 1, 2017
10	Mr. Maynard	4 years	January 1, 2017
11	Ms. Hardy	2 years	January 1, 2015
12	Mrs. Miller	2 years	January 1, 2015
13	Mrs. Knight	2 years	January 1, 2015
14	Ms. Melton	4 years	January 1, 2017
15	Mr. Rowley	4 years	January 1, 2017

3. Review and Adoption of State Board of Education Operating Rules
(Board agenda page SBOE-3)

Debbie Ratcliffe, Director of Media Relations, Division of Communications and SBOE Support, reviewed the non-substantive changes recommended by staff to the State Board of Education Operating Rules.

MOTION: *It was moved by Mr. Mercer and seconded by Ms. Hardy to adopt the State Board of Education Operating Rules, as shown in pages SBOE-4 through SBOE-24 of the agenda materials.*

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §1.2, Committees of the Board, subsection (d), as follows:*

(d) *The Committee on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request [~~receive~~] in writing the [~~two~~] committee choices of the members ranked in order of preference and shall make committee assignments for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board may also consider seniority, ethnicity, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair.*

MOTION: *It was moved by Mr. Ratliff and seconded by Mr. Mercer to amend §1.2, Committees of the Board, subsection (d), by inserting language at the end of the paragraph, as follows:*

An officer of the board is not eligible to serve as the chair of a committee.

MOTION AND VOTE: *It was moved by Mr. Maynard, seconded by Mr. Mercer, and carried to amend Mr. Ratliff's motion, as follows:*

An officer of the board is not eligible to serve as the chair of a standing committee.

MOTION AND VOTE: *It was moved by Mr. Bradley and seconded by Mr. Ratliff to amend the motion, as follows:*

An officer of the board is not eligible to serve as the chair or vice chair of a standing committee.

The motion failed.

VOTE: *A vote was taken on the motion to amend §1.2, Committees of the Board, subsection (d), by inserting language at the end of the paragraph, as amended, as follows:*

An officer of the board is not eligible to serve as the chair of a standing committee.

The motion carried.

MOTION AND VOTE: *It was moved by Mr. Mercer, seconded by Mr. Maynard, and carried to amend §1.3, Board Member Seating Selection, as follows:*

§1.3. Board Member Seating Selection.

With the exception of the chair, the selection of seating by board members shall be on the basis of years of total [~~consecutive~~] service on the board, with the board member having the longest service selecting a desk location first. The selection process shall proceed in order of service. For members with identical service periods, the order will be determined by the drawing of numbers which will govern the order of selection for those members with the same service period.

MOTION AND VOTE: *It was moved by Mr. Mercer, seconded by Ms. Hardy, and carried to amend §1.2, Committees of the Board, subsection (d), as follows:*

- (d) *The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board may also consider seniority (total years of service), ethnicity, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as chair of a standing committee.*

MOTION AND VOTE: *It was moved by Mr. Bradley, seconded by Mr. Mercer, and carried to amend §1.2, Committees of the Board, subsection (d), as follows:*

- (d) *The Committees on Instruction, School Finance/Permanent School Fund, and School Initiatives shall be composed of five members selected by the officers of the board. Each member will serve on one committee in addition to the Committee of the Full Board. The officers of the board shall request in writing the committee choices of the members ranked in order of preference and shall make committee assignments for terms of two years at the organizational meeting after the qualification of new members as the next order of business following election of board officers and adoption of rules. Vacancies shall be filled in a similar fashion. In addition to preference, the officers of the board shall shall [~~may~~] also consider seniority (total years of service), ethnicity, gender balance, and relevant qualifications specific to a committee assignment in making committee assignments. Each committee shall elect a chair from among its members and the chair may appoint a vice chair. An officer of the board is not eligible to serve as chair of a standing committee.*

MOTION: *It was moved by Mrs. Knight and seconded by Mr. Ratliff to amend §1.3, Board Member Seating Selection, as follows:*

§1.3. Board Member Seating Selection.

With the exception of the chair, the seating of board members will be by State Board of Education districts. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

~~*[With the exception of the chair, the selection of seating by board members shall be on the basis of years of total service on the board, with the board member having the longest service selecting a desk location first. The selection process shall proceed in order of service. For members with identical service periods, the order will be determined by the drawing of numbers which will govern the order of selection for those members with the same service period.]*~~

There being no objection by the board, the question was divided into two parts.

VOTE: *A vote was taken on the motion to amend §1.3, Board Member Seating Selection, as follows:*

With the exception of the chair, the seating of board members will be by State Board of Education districts.

The motion carried.

MOTION AND VOTE: *It was moved by Mr. Ratliff and seconded by Ms. Hardy to amend §1.3, Board Member Seating Selection, as follows:*

With the exception of the chair, the seating of board members will be by State Board of Education districts. Any member [with a special need] may exchange seats with another board member who is in agreement with that exchange.

The motion failed.

VOTE: *A vote was taken on the motion to amend §1.3, Board Member Seating Selection, as follows:*

With the exception of the chair, the seating of board members will be by State Board of Education districts. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

The motion carried.

VOTE: A vote was taken on the motion to amend §1.3, Board Member Seating Selection, as follows:

With the exception of the chair, the seating of board members will be by State Board of Education districts. Any member with a special need may exchange seats with another board member who is in agreement with that exchange.

~~[With the exception of the chair, the selection of seating by board members shall be on the basis of years of total service on the board, with the board member having the longest service selecting a desk location first. The selection process shall proceed in order of service. For members with identical service periods, the order will be determined by the drawing of numbers which will govern the order of selection for those members with the same service period.]~~

The motion carried.

MOTION AND VOTE: It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §2.5, Agendas, subsection (b), as follows:

(b) A subject outside the scope of the board's authority may only be placed on the agenda of the board or of the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination of whether an item is outside the scope of the board's authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board's authority on the agenda for a subsequent meeting. A motion to place an item outside of the board's authority on an agenda is not debatable.

MOTION: It was moved by Mr. Ratliff and seconded by Ms. Hardy to amend §2.10, Oral Public Testimony in Connection with Regular Board and Committee Meetings, subsection (b)(1), as follows:

(b)(1) Speakers may register ~~[between the hours of 8 a.m. and 5 p.m. (Central Time) on the Friday and Monday preceding the board meeting]~~ with the appropriate agency office ~~[either]~~ by electronic mail, telephone, by facsimile, or in person at the William B. Travis (WBT) State Office Building, 1701 N. Congress, Austin, Texas 78701.

Mr. Ratliff withdrew his motion without objection by the board.

MOTION AND VOTE: It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §2.10, Oral Public Testimony in Connection with Regular Board and Committee Meetings, subsection (b)(1), as follows:

(b)(1) Speakers may register between the hours of 8 a.m. on the Friday preceding the board meeting and 5 p.m. (Central Time) on the [Friday and] Monday preceding the board meeting with the [appropriate] agency website or [office either by telephone, by] facsimile, or, during normal operating hours with the appropriate agency office in person or by telephone at the William B. Travis (WBT) State Office Building, 1701 N. Congress, Austin, Texas 78701.

Mr. Ratliff stated that as a result of the motion this would also direct staff to modify the Registration Form for Public Testimony to comply with this rule.

MOTION AND VOTE: *It was moved by Mr. Bradley, seconded by Mr. Mercer, and carried to amend §2.5, Agendas, subsection (b), as follows:*

(b) *A subject on the agenda that is outside the scope of the board's authority may only be considered by [~~placed on the agenda of~~] the board or [~~of~~] the Committee of the Full Board by a vote of a majority of the membership of the board. The chair, in consultation with Agency legal counsel, shall make a determination of whether an item is outside the scope of the board's authority when preparing the agenda. Any member may move to place an item determined by the chair to be outside the scope of the board's authority on the agenda for a subsequent meeting. A motion to place an item outside of the board's authority on an agenda is not debatable.*

MOTION AND VOTE: *It was moved by Mr. Bradley, seconded by Mr. Ratliff, and carried to amend §2.5(b) by deleting the last sentence, as follows:*

~~*[A motion to place an item outside of the board's authority on an agenda is not debatable.]*~~

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §2.10, Oral Public Testimony in Connection with Regular Board and Committee Meetings, subsection (b)(4), as follows:*

(b)(4) *A person may register himself or herself, and one other person. Organizations may not [~~are encouraged to~~] register [~~no~~] more than two persons per item.*

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §2.10(c)(2), as follows:*

(c)(2) *Thirty (30) minutes shall be allotted for oral public testimony, excluding the questions and answers, unless modified by the presiding chair with the consent of the committee. Three (3) minute time limits on individual oral testimony will be imposed unless modified by the presiding chair. Testimony invited by committee members shall not be counted against the time allotted for oral public testimony. Agency staff shall inform the presiding chair and any affected registered speakers prior to the meeting if time constraints may not allow some registered speakers to testify.*

MOTION: *It was moved by Mr. Maynard and seconded by Mr. Ratliff to amend §2.9, Resolutions, by adding a new subsection (d), as follows:*

(d) A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for final adoption shall submit the amendment in writing to the staff no later than 5 p.m. or one hour following the adjournment of the board, whichever is later, on the day prior to the amendment being considered by the board in accordance with rules adopted by the board relating to the TEKS adoption process. All amendments shall be posted and available for public comment. This rule may be suspended by a two-thirds vote of the members of the board present and voting.

MOTION: *It was moved by Mrs. Knight to create a separate section and heading that would address amendments to the TEKS Review/Revision Process.*

With no objection from the board, Mr. Maynard modified his motion to include the language in a newly created §2.14. There being no objection from the board, Mrs. Cargill stated that a new §2.14, Filing of Amendments, would be created to include Mr. Maynard's language.

MOTION: *It was moved by Mr. Mercer and seconded by Dr. Dominguez to amend the motion as follows:*

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for final adoption shall submit the amendment in writing to the staff no later than 5 p.m. or one hour following the adjournment of the board, whichever is later, on the day prior to the amendment being considered by the board in accordance with rules adopted by the board relating to the TEKS adoption process. All amendments shall be posted and available for public comment. This rule may be suspended by a majority [~~two-thirds~~] vote of the members of the board present and voting.

Mr. Mercer withdrew his amendment without objection from the board.

MOTION AND VOTE: *It was moved by Mr. Rowley, seconded by Mr. Ratliff, and carried to amend the motion, as follows:*

This rule may be suspended by a two-thirds vote of the members of the board present and voting, with the motion to suspend being debatable.

David Anderson, legal counsel, suggested that the amendment become a new rule in Chapter 5, instead of Chapter 2, since it pertains to rulemaking.

There being no objection from the board, Mrs. Cargill stated that the new subsection, as amended, would be placed under Chapter 5, Rules and the Rulemaking Process, and would become §5.7, Filing of Amendments.

Mr. Bradley stated that for clarity he would like to insert in the first sentence the words “second reading and” before “final adoption.” There being no objection by the board, Mrs. Cargill stated that the words would be inserted.

MOTION: *It was moved by Mrs. Bahorich to amend the first sentence by extending the one hour to two hours.*

There being no objection by the board, Mrs. Cargill stated that one hour would be changed to two hours.

VOTE: *A vote was taken on the motion, as amended, as follows:*

§5.7. Filing of Amendments.

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for second reading and final adoption shall submit the amendment in writing to the staff no later than 5 p.m. or two hours following the adjournment of the board, whichever is later, on the day prior to the amendment being considered by the board in accordance with rules adopted by the board relating to the TEKS adoption process. All amendments shall be posted and available for public comment. This rule may be suspended by a two-thirds vote of the members of the board present and voting, with the motion to suspend being debatable.

Mr. Bradley stated that for clarity the word “board” on the fourth line should say, “Committee of the Full Board.” There being no objection by the board, Mrs. Cargill stated it would be changed.

MOTION: *It was moved by Mr. Bradley to amend the second sentence, as follows:*

All amendments shall be made available as reasonably as possible by staff.

Mr. Bradley withdrew his motion, without objection by the board.

MOTION: *It was moved by Mr. Bradley and seconded by Mr. Ratliff to amend the motion by striking the second sentence, as follows:*

[All amendments shall be posted and available for public comment.]

Mr. Bradley withdrew his motion, without objection by the board.

MOTION AND VOTE: *It was moved by Mrs. Knight, seconded by Mr. Bradley, and carried to amend the second sentence, as follows:*

All amendments shall be made [~~posted and~~] available to the public to the extent possible [~~for public comment~~].

VOTE: *A vote was taken on the motion, as amended, as follows:*

§5.7. Filing of Amendments.

A member wishing to amend any Texas Essential Knowledge and Skills (TEKS) being considered by the board for second reading and final adoption shall submit the amendment in writing to the staff no later than 5 p.m. or two hours following the adjournment of the Committee of the Full Board, whichever is later, on the day prior to the amendment being considered by the board in accordance with rules adopted by the board relating to the TEKS adoption process. All amendments shall be made available to the public to the extent possible. This rule may be suspended by a two-thirds vote of the members of the board present and voting, with the motion to suspend being debatable.

The motion carried unanimously.

MOTION: *It was moved by Mr. Mercer to amend §4.1, Standards of Conduct and Conflicts of Interest, by adding a new subsection (c), as follows:*

(c) When appearing before a legislative committee, the board member shall clarify whether he/she is appearing as:

- (1) an individual, private citizen,
- (2) an individual board member,
- (3) a designated board representative,
- (4) a representative of his/her employer, or
- (5) other

The motion died for lack of a second.

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Ms. Hardy, and carried to amend §6.1, General Provisions, subsection (b), as follows:*

(b) The State Board of Education ~~may~~ shall establish a Committee of Investment Advisors (CIA) to the Permanent School Fund and approve all selected appointments. The CIA shall be composed of not more than 15 members, one appointed by each State Board of Education member, who each have considerable institutional investment expertise and are free from conflicts of interest. The CIA member will closely advise the individual State Board of Education member who appointed the member on all matters relative to the management of the Permanent School Fund as necessary. The CIA may meet in person or via conference call or telephone conference as needed. Duties and responsibilities of the CIA are within the Texas Permanent School Fund – Investment Procedures Manual, Section A.2.

MOTION AND VOTE: *It was moved by Mr. Ratliff, seconded by Mr. Bradley, and carried to amend §6.1, General Provisions, by adding a new subsection (c), as follows:*

(c) If the board does not establish a CIA, nothing shall prevent a board member from selecting and working with an investment advisor in a manner consistent with federal and state laws and the Investment Procedures Manual.

MOTION: *It was moved by Mrs. Knight and seconded by Ms. Hardy to amend the Registration Form for Public Testimony by striking the word VIEWPOINT and inserting the words YOUR POSITION.*

MOTION: *It was moved by Mrs. Bahorich and seconded by Mr. Mercer to amend the Registration Form for Public Testimony by striking the word OTHER and substituting the word ON.*

Ms. Hardy stated her belief that for clarification the word COMMENT should be inserted before ON, and Mrs. Bahorich agreed.

VOTE: *A vote was taken on the motion to amend the Registration Form for Public Testimony by striking the word OTHER and substituting the words COMMENT ON. The motion carried.*

VOTE: *A vote was taken on the motion to amend the Registration Form for Public Testimony by striking the word VIEWPOINT and inserting the words YOUR POSITION. The motion carried.*

VOTE: *A vote was taken on the motion to adopt the State Board of Education Operating Rules, as amended. The motion carried.*

Mrs. Cargill instructed staff to make any necessary technical edits.

The State Board of Education recessed at 2:25 p.m., and reconvened at 3:35 p.m.

(ATTACHMENT, page 15)

4. Board Members Seating Selection
(Board agenda page SBOE-25)

Conforming to newly adopted §1.3, Board Member Seating Selection, of the State Board of Education Operating Rules, the seating of board members was by district order, with the exception of the Chair.

5. Election of State Board of Education Officers
(Board agenda page SBOE-27)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the first regular meeting after the election and qualification of new State Board of Education members, the board shall elect by separate votes a vice chair and a secretary. The vice chair and secretary of the board will be elected to serve for terms of two years and until their successors are elected.

NOMINATION: *Mr. Bradley nominated Mr. Mercer for vice chair of the State Board of Education for a two-year term.*

NOMINATION: *Ms. Hardy nominated Mr. Ratliff for vice chair of the State Board of Education for a two-year term.*

VOTE: *A vote was taken on the nomination of Mr. Mercer for vice chair of the State Board of Education for a two-year term. The motion failed, with 6 members voting Aye and 9 members voting No, as follows:*

<i><u>Aye:</u></i>	<i>Mrs. Bahorich</i>	<i>Mr. Mercer</i>
	<i>Mr. Bradley</i>	<i>Mrs. Miller</i>
	<i>Mrs. Cargill</i>	<i>Mr. Rowley</i>
<i><u>No:</u></i>	<i>Mr. Allen</i>	<i>Mr. Maynard</i>
	<i>Mr. Cortez</i>	<i>Ms. Melton</i>
	<i>Dr. Dominguez</i>	<i>Ms. Perez</i>
	<i>Ms. Hardy</i>	<i>Mr. Ratliff</i>
	<i>Mrs. Knight</i>	

VOTE: *A vote was taken on the nomination of Mr. Ratliff for vice chair of the State Board of Education for a two-year term. The motion carried.*

Mr. Ratliff was elected vice chair of the State Board of Education.

NOMINATION: *Ms. Hardy nominated Mrs. Knight for secretary of the State Board of Education for a two-year term. The nomination carried unanimously.*

Mrs. Knight was elected secretary of the State Board of Education.

6. Announcement of Membership of Standing Committees
(Board agenda page SBOE-29)

Pursuant to the provisions of the Texas Education Code (TEC), §7.107, at the board's first regular meeting after the election and qualification of new members, the board shall organize. This item provides the opportunity to announce appointments to the standing committees of the State Board of Education.

MOTION AND VOTE: *It was moved by Mrs. Miller, seconded by Mr. Bradley, and carried that the officers of the board assign the membership of standing committees in the boardroom instead of Room 1-109.*

Mrs. Cargill announced that the membership of the standing committees would take place in the boardroom, a public setting.

Mrs. Cargill announced the membership of the standing committees of the board, as follows:

Committee on Instruction

Martha M. Dominguez
Tom Maynard
Sue Melton
Geraldine Miller
Marisa B. Perez

Committee on School Finance/Permanent School Fund

Lawrence A. Allen, Jr.
David Bradley
Patricia Hardy
Ken Mercer
Thomas Ratliff

Committee on School Initiatives

Donna Bahorich
Barbara Cargill
Ruben Cortez, Jr.
Mavis B. Knight
Marty Rowley

Mrs. Cargill adjourned the January 30, 2013, meeting of the State Board of Education, at 4:20 p.m.

Mavis B. Knight, Secretary